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Counsel to the Debtors and Debtors in Possession

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
RICHMOND DIVISION

- - - - - x  
:  
In re: : Chapter 11  
:  
CIRCUIT CITY STORES, INC., : Case No. 08-35653 (KRH)  
et al., :  
:  
Debtors. : Jointly Administered  
- - - - - x

**STIPULATION, AGREEMENT AND ORDER BY AND AMONG THE DEBTORS,  
INTERNATIONAL BUSINESS MACHINES CORPORATION AND IBM CREDIT,  
LLC REGARDING EQUIPMENT LEASES AND FOR RELATED RELIEF**

This stipulation and agreement (the "Stipulation") is made this 27th day of February, 2009 by and between the debtors and debtors in possession in the above-captioned cases (collectively, "Circuit City" or

the "Debtors")<sup>1</sup> and International Business Machines Corporation and IBM Credit LLC (collectively "IBM"). The Debtors and IBM are collectively referred to herein as the "Parties".

WHEREAS, on November 10, 2008 (the "Petition Date"), the Debtors filed voluntary petitions for chapter 11 relief with the United States Bankruptcy Court for the Eastern District of Virginia (the "Bankruptcy Court").

WHEREAS, pursuant to sections 1107 and 1108 of title 11 of the United States Code (the "Bankruptcy Code"), the Debtors are continuing to manage and operate their businesses as debtors in possession.

WHEREAS, Circuit City and IBM are parties to those certain Term Lease Master Agreements (the "Master Lease Agreements"), entered into on December 23, 2005

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<sup>1</sup> The Debtors and the last four digits of their respective taxpayer identification numbers are as follows: Circuit City Stores, Inc. (3875), Circuit City Stores West Coast, Inc. (0785), InterTAN, Inc. (0875), Ventoux International, Inc. (1838), Circuit City Purchasing Company, LLC (5170), CC Aviation, LLC (0841), CC Distribution Company of Virginia, Inc. (2821), Circuit City Properties, LLC (3353), Kinzer Technology, LLC (2157), Abbott Advertising Agency, Inc. (4659), Patapsco Designs, Inc. (6796), Sky Venture Corp. (0311), Prahs, Inc. (n/a), XSStuff, LLC (9263), Mayland MN, LLC (6116), Courchevel, LLC (n/a), Orbyx Electronics, LLC (3360), and Circuit City Stores PR, LLC (5512). The address for Circuit City Stores West Coast, Inc. is 9250 Sheridan Boulevard, Westminster, Colorado 80031. For all other Debtors, the address is 9950 Mayland Drive, Richmond, Virginia 23233.

and April 27, 2007, as amended from time to time, and those certain supplements to the Master Lease Agreements (each, a "Supplement"), pursuant to which IBM leases certain point-of-sale and other equipment (the "Equipment") to Circuit City. Copies of the Master Lease Agreements are attached hereto as Exhibits 1 and 2.

WHEREAS, pursuant to the Master Lease Agreements and certain of the Supplements, Circuit City leased Equipment from IBM, which has been or currently is used in Circuit City's retail stores (the "Retail Equipment").

WHEREAS, prior to the Petition Date, Circuit City commenced store closings (the "Initial Store Closings") of approximately 155 of its retail store locations (the "Closing Stores"), listed on Exhibit 3 attached hereto. The Initial Store Closings were completed by no later than December 31, 2008.

WHEREAS, the Debtors notified IBM of the Initial Store Closings and the Debtors removed the Retail Equipment from each of the 155 stores closed during the Initial Store Closings (the "Initial Store Closing Equipment") following completion of the sales at the Initial Store Closings. All Initial Store Closing

Equipment was removed and returned to IBM on or before December 31, 2008.

WHEREAS, the Debtors desire to reject the Supplements as related to the Initial Store Closing Equipment.

NOW, THEREFORE, intending to be legally bound hereby, upon order of the Bankruptcy Court as contemplated hereby (the "Order"), the Parties hereto stipulate as follows:

1. Each Supplement is a contract entirely separate from and severable from all other Supplements. Each Supplement fully incorporates the terms of the Master Lease Agreement and, hereinafter, references to a Supplement shall include the Master Lease Agreements as incorporated therein.

2. The Supplements by which IBM leased the Initial Store Closing Equipment to Circuit City, including the Supplements listed on Exhibit 4 attached hereto,<sup>2</sup> shall be deemed rejected as of December 31, 2008.

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<sup>2</sup> Exhibit 4 sets forth the list of Supplements associated with the Initial Store Closing Equipment based on the Debtors' latest information. However, the Debtors believe that certain Supplements associated with the Initial Store Closing Equipment may have been inadvertently omitted. To ensure that all Supplements associated with the Initial Store Closing Equipment are rejected, the Debt-  
(cont'd)

3. The Debtors believe, but make no representation, warranty or covenant, that no proprietary or confidential information was recorded in any of the Initial Store Closing Equipment. In any event, IBM shall have no liability with respect to any disclosure of information contained therein.

4. IBM agrees that any claims, including fees, costs, or expenses, incurred by IBM, directly or indirectly, in connection with, arising from, or related to the removal, recovery or receipt of the Initial Store Closing Equipment, regardless whether such removal, recovery, or receipt occurred before or after the applicable rejection date, shall not constitute administrative expense claims under Bankruptcy Code sections 365, 503 or 507; provided, however, that nothing herein shall be deemed to grant IBM permission to file (or bar IBM from filing) an administrative expense claim for returned equipment claimed to be damaged or missing parts or for equipment claimed to have been leased but not returned, and nothing herein shall impair or otherwise restrict

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ors are seeking to reject all Supplements for Equipment stored in or used at the Closing Stores listed on Exhibit 3, whether or not such Supplements are specifically listed on Exhibit 4.

the Debtors' right to object to any such claim(s) on any grounds.

5. IBM may file one or more proofs of claim resulting from the rejection of the Supplements rejected hereby within 30 days following rejection of the Master Lease Agreements.

6. Upon entry of the Order by the Bankruptcy Court, this Stipulation shall be binding upon and shall inure to the benefit of each of the Parties and each of their respective successors and assigns.

7. The Bankruptcy Court shall retain exclusive jurisdiction to hear and determine all matters relating to or arising from this Stipulation.

8. This Stipulation contains the entire agreement and understanding between the Parties with respect to the subject matter hereof, and supersedes and replaces all prior negotiations or proposed agreements, written or oral.

9. This Stipulation may be executed in counterparts, each of which shall be deemed to be an original, but all of which, together will constitute one and the same agreement. This Stipulation may be executed by

facsimile signature which shall have the same force and effect as an original signature.

IN WITNESS WHEREOF, the Parties have set their hands in agreement as of the date written above.

**CIRCUIT CITY STORES, INC.**

By:

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**INTERNATIONAL BUSINESS MACHINES CORPORATION  
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Corporation and IBM Credit, LLC

**ORDER**

Upon consideration of the foregoing, it is  
hereby:

ORDERED, that the Stipulation is hereby ap-  
proved in its entirety; and it is further

ORDERED, that this Court shall retain juris-  
diction to hear and determine all matters arising from  
or related to this Stipulation and Order.

Dated: Richmond, Virginia  
\_\_\_\_\_, 2009

UNITED STATES BANKRUPTCY JUDGE

WE ASK FOR THIS:

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Counsel to the Debtors and  
Debtors in Possession

**CERTIFICATION OF ENDORSEMENT UNDER LOCAL RULE 9022-1(C)**

Pursuant to Local Bankruptcy Rule 9022-1(C), I  
hereby certify that the foregoing proposed order has  
been endorsed by or served upon all necessary parties.

/s/ Douglas M. Foley  
Douglas M. Foley